

HENRY T. MUDD.

[To accompany bill H. R. 589.]

DECEMBER 12, 1856.

Mr. PORTER, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, to whom was referred the petition of Henry T. Mudd, of Missouri, have had the same under consideration and respectfully report:

That one Charles Burke, on the 15th day of March, 1854, entered at the land office at Palmyra, Missouri, under the pre-emption act of the 4th of September, 1841, the southeast quarter of section 34, township 51, of range 2 west, containing 160 acres, for which he paid \$200, (as per receiver's receipt, No. 29,293.) Upon the final decision of the case at the General Land Office, the said entry was declared illegal and set aside. The said Burke in the meantime, viz: on the 17th day of March, 1854, sold and conveyed said land to the petitioner, Henry T. Mudd, for the price of eight hundred dollars, which was paid to him by said Mudd, said Burke being an Irishman, who had taken no steps towards naturalization, and having no family, nor any visible means, except his said pre-emption, soon after his sale thereof, removed to parts unknown, and said Mudd was allowed to re-enter said land at the government price. The Commissioner of the General Land Office then decided that said Burke, or his authorized agent, was entitled to receive back his said entrance money, viz: the said sum of two hundred dollars, as his said entry had been set aside. The petitioner, Mudd, however, applied to the officers of the Palmyra land office, exhibited his said deed duly executed from Burke, and claimed that said sum of two hundred dollars should be paid to him instead of said Burke, and the case made by him was sent on to the General Land Office for its determination. The Commissioner, however, in answer, informed the petitioner Mudd that, notwithstanding the facts above stated, and the equity of his claim, which was acknowledged, the said money could not be paid to any one but said Burke or his authorized agent, in consequence of the 12th section of the said pre-emption law which declares, "all assignments or transfers of the right acquired by said pre-emption law, *prior to the issue of a patent null and void.*"

The whereabouts of said Burke being unknown, as above stated, his

power of attorney cannot be procured. The Commissioner of the General Land Office, and the Secretary of the Interior, however, both concur in recommending the passage of a remedial act by Congress, authorizing them to recognize the petitioner Mudd as the assignee of Burke, so far as the right to receive the said sum of \$200 is concerned, and that thereupon the same would be paid to him. The committee being satisfied that said petitioner acted in good faith in buying said land, and in ignorance of the state of Burke's title, and that the fund in question recognized as belonging to Burke in equity and good conscience belongs to the petitioner Mudd, report a bill for that purpose, and recommend its passage.